

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
San Francisco Division

American Rena International
Corporation, a California corporation;
WanZhu “Kathryn” Li, an individual;
Robert M. Milliken, an individual,

Plaintiffs/Movants,

vs.

Amy Huynh Luong,

Respondent.

Sis-Joyce International Co., Ltd., a
California corporation; Alice “Annie”
Lin, an individual; Robert Simone, an
individual; Christine “Nina” Ko, an
individual; and DOES 3-10,

Defendants.

No. MC 13-80142 EMC (LB)

**[PROPOSED] ORDER FINDING
RESPONDENT AMY HUYNH
LUONG IN CONTEMPT, AND
ORDERING SANCTIONS**

1 On August 5, 2013 the undersigned issued an order granting Plaintiffs'
2 motion to compel respondent Amy Huynh Luong to appear for deposition and
3 produce documents. *See* Order, ECF No. 9. The court also denied Plaintiffs'
4 motion for a \$5,000 sanction without prejudice, while warning Ms. Luong that
5 sanctions might be appropriate if Ms. Luong did not comply with the Court's order.
6 *See id.* The court also ordered Ms. Luong to either appear on August 15, 2013 to
7 show cause why she should not be held in contempt or make arrangements for her
8 deposition with Plaintiffs' counsel. *See id.* Ms. Luong was served with this Order
9 on August 6, 2013. *See* ECF No. 10, at 2.

10 On August 15, 2013, Ms. Luong did not appear. *See* ECF No. 12. This Court
11 gave Ms. Luong one more opportunity to appear "on August 22, 2013 at 9:30 a.m.
12 in Courtroom C, 15th Floor, 450 Golden Gate Avenue, San Francisco, California
13 94102 to show cause why she should not be held in contempt for her failure to
14 comply with the subpoena and appear for her deposition." *See* ECF No. 12. Ms.
15 Luong was personally served with this Order on August 16, 2013. *See* ECF No. 14.

16 On August 22, 2013, Ms. Luong again did not appear. Moreover, Ms. Luong
17 continues to fail without adequate justification to appear for her deposition and
18 produce documents in compliance with the subpoena or make arrangements for the
19 same with Plaintiffs' counsel. NOW THEREFORE, having considered all of the
20 facts and circumstances of this matter, and in light of the fact that Ms. Luong has
21 now been given more than adequate notice and an opportunity to be heard regarding
22 her contempt, the undersigned hereby finds Ms. Luong in **CONTEMPT** and
23 **GRANTS** plaintiffs' request for \$5,000 in contempt sanctions as follows:

24 1. Ms. Luong is hereby found and adjudged to be in **CONTEMPT**
25 for her failure to comply with Plaintiffs' subpoena served on her on April 10, 2013
26 (the "Subpoena") and appear for deposition and produce documents in accordance
27 therewith;

28 2. If Ms. Luong does not purge her contempt by appearing for

1 deposition and producing documents in full compliance with the Subpoena on or
2 before Thursday, September 5, 2013, then starting that day, and continuing every
3 Thursday thereafter until this Court has found that Ms. Luong has purged her
4 contempt, Ms. Luong is hereby fined, adjudged to be liable to Plaintiffs for and
5 ORDERED to pay Plaintiffs, through their counsel, **\$500.00** for each week that she
6 does not purge her contempt as described above, up to a maximum of **\$5,000.00** (i.e.
7 \$500.00 on September 5, 2013, \$500.00 on September 12, 2013, etc.). If the full
8 amount of this \$5,000.00 contempt sanction has been exhausted and Ms. Luong has
9 still not purged her contempt, then Plaintiffs may obtain further monetary contempt
10 sanctions against Ms. Luong by submitting further proof of their costs and fees to
11 this Court. The contempt fines and sanctions imposed on Ms. Luong by this
12 provision are self-executing and may be enforced without the need for further
13 judicial intervention.

14 3. Plaintiffs' counsel is directed to notify the Court immediately
15 when Ms. Luong has purged her contempt by appearing for deposition and
16 producing documents in compliance with the Subpoena.

17 4. Because Plaintiffs timely moved to enforce the Subpoena and
18 Ms. Luong has continued to fail to appear or produce documents in compliance
19 therewith, this Court views the August 23, 2013 fact discovery cutoff in the
20 underlying action to be tolled as it relates to Ms. Luong's deposition. Ms. Luong
21 must purge her contempt and comply with the Subpoena notwithstanding the August
22 23, 2013 fact discovery cutoff.

23 5. The Court sets a status hearing in this matter for September 5,
24 2013 at 11:00 a.m. in Courtroom C, 15th Floor, 450 Golden Gate Avenue, San
25 Francisco, California 94102, so that the undersigned may be apprised of the current
26 status of Ms. Luong's contempt. Counsel may appear telephonically at this hearing.

27 6. Plaintiffs' counsel is directed to serve a copy of this order on Ms.
28 Luong and file proof of service with the Court.

1 **IT IS SO ORDERED.**

2
3 DATED: August 23, 2013



HON. LAUREL BEELER